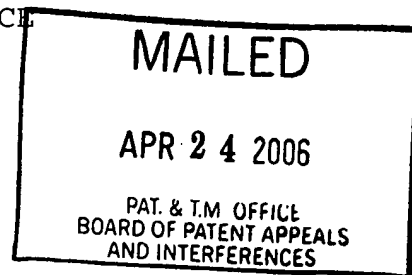


UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCE

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Ex parte DAVID K. MCKNIGHT and EDUARDUS A.T. MERKS

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Application 09/489,793

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on March 31, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

An Examiner's Answer was mailed on September 22, 2005. However, the appeal conference is improper. Section 1208 of the Manual of Patent Examining Procedure (MPEP) (8<sup>th</sup> Ed., August 2001) states:

**APPEAL CONFERENCE**

An appeal conference is mandatory in all cases in which an acceptable brief (MPEP § 1206) has been filed. . . .

. . . .

. . . . If the examiner's answer does not contain the appropriate a indication that an appeal conference has been held (i.e., including the names of the conferees and identifying themselves as the conferees along with their initials), the Board should return the application directly to the appropriate Technology Center (TC) Director for corrective action. . . . This procedure applies to all examiner's answers received by the Board on or after November 1, 2000.

The Examiner's Answer mailed on September 22, 2005, is deficient in that there is no evidence that an appeals conference has been held.

Application 09/489,793

Accordingly, it is ORDERED that the application is return to the Examiner:

- 1) to vacate the Examiner's Answer mailed September 22, 2005, and submit a revised Examiner's Answer in accordance with the new rules effective September 13, 2004 with the appropriate notation of an appeal conference; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCE

A handwritten signature in black ink, appearing to read 'D. M. Shaw', with a long horizontal flourish extending to the right.

DALE M. SHAW  
Program and Resource Administrator  
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DMS/pgc

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